

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

SUFFOLK, SS

DOCKET NUMBER 05-CV-11349-RCL

RICHARD LIVINGSTON

Plaintiff, Pro Se

Vs.

MBTA Employees Credit Union

Defendants

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Pro Se, Plaintiff's

MOTION

for

EMERGENCY HEARING

L.R. 7.1

Pursuant to Local Rule 7.1, Motion Practice, Plaintiff, Pro Se, Richard Livingston pleads with this Honorable Court to allow an emergency hearing before the bench for the following reasons:

1. As a matter of court equity, fair play, and justice, the Defendants MBTA Employees Credit Unions Reply to Plaintiff Pro Se Richard Livingston's Motion in Opposition to the Defendant's Motion for Summary Judgment (filed September 18, 2006) which serves no purpose but to confuse the court, frustrate the Pro Se Plaintiff, and block the Pro Se Plaintiffs claim from reaching the ears of a jury. The Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for Summary Judgment should be discussed before the court, and -:

- a. Plaintiff Pro Se Richard Livingston did not receive notice from the Court granting the Defendant MBTA Employees Credit Union's Motion for Leave to file Motion in Opposition to the Plaintiff's Motion in Opposition to the Defendant's Summary Judgment.
- b. Plaintiff, Pro Se Richard Livingston from the Defendant MBTA Employees Credit Union, received defendant's Reply to Plaintiff's Motion in Opposition for Summary Judgment via U.S. Postal first class mail on September 19, 2006.
- c. Plaintiff Pro Se Richard Livingston stands and affirms all statements made in Plaintiff's Motion in Opposition to the Defendant MBTA Employees Credit Unions Motion for Summary Judgment; with the exception of (e.) below the Plaintiff's *Sur Reply* would be a carbon copy of the Plaintiffs original Motion in

Opposition to the Defendant MBTA Employees Credit Union's Motion for Summary Judgment.

- d. Defendant MBTA Employees Credit Union embellishes and invents claims never made by the Plaintiff, Pro Se Richard Livingston - all in an attempt to cloud the issues.
- e. Most egregious, is the assertion of the Defendant, MBTA Employees Credit Union that Paul Falconer of Falconer Appraisal Services, Inc. produced a new cover page changing the original appraisal prepared for the Plaintiff Pro Se Richard Livingston and the Defendant MBTA Employees Credit Union to read prepared for Chittenden Bank. It is a fact as recent as September 20, 2006, in conversation with the Plaintiff Pro Se Richard Livingston, in his own words; Mr. Falconer informed the Plaintiff that the Gramm, Leach, Blithely Act as well as the Appraisals Code of Ethics would not have allowed any such change to take place. All of the above can and will be attested to under sworn testimony by Mr. Falconer before a jury and this Honorable Court.

IN CONCLUSION: Given the great imbalance of power, a schooled member of the bar verses a pro se litigant the court should mercifully consider the fact that the pro se litigant has abided by the courts directives; has followed the required civil procedure steps; at all times remained in contacted with opposing attorney, and maintain decorum with the opposition. The Court should as a matter of justice allow an emergency hearing in order to grant a fair and impartial presentation of the Plaintiff, Pro Se's claim.

LR 7.1(A)(2) Certification of Pro Se, Plaintiff

Pursuant to LR 7.1(A)(2), Pro Se, Plaintiff certifies that he conferred with counsel for the defendant and attempted in good faith to resolve or narrow the issue presented by this motion.

Date

September 20, 2006

Richard Livingston

Richard Livingston, Plaintiff, Pro Se,
149 Warren Avenue
Milton, Massachusetts 02186-2009
617-698-4333 HM

CERTIFICATE OF SERVICE

I, Richard Livingston, Plaintiff, Pro Se hereby swear and affirm that I have this day Sept 20, 2006 notified Peter C. Netburn, Esq. of Hermes, Netburn, O'Connor & Spearing, P.C. 265 Franklin Street, Seventh Floor Boston, MA 02110-3113 legal representative for MBTA Employees Credit Union, Defendant {MBTA Employees Credit Union, South Boston, Massachusetts} by United States Postal Service Hermes, Netburn, O'Connor & Spearing, P.C. 265 Franklin Street, Seventh Floor Boston, MA 02110-3113

Date

September 20, 2006

Richard Livingston
Richard Livingston Plaintiff, Pro Se